

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DANIEL RAMOS,

Petitioner,

No. C 05-5181 PJH (PR)

vs.

BEN CURRY, Warden,

Respondent.

**REVISED ORDER
DENYING HABEAS
PETITION**

This is a habeas corpus case filed by a state prisoner pursuant to 28 U.S.C. 2254.

The only issue remaining in this case is Ramos' claim that a 2004 parole denial was not supported by "some evidence." The United States Supreme Court has recently held that "[i]n the context of parole . . . the procedures required [by the due process clause] are minimal . . . an opportunity to be heard and . . . a statement of the reasons why parole was denied . . . [t]he Constitution . . . does not require more." *Swarthout v. Cooke*, No. 10-333, slip op. at 4-5 (January 24, 2011). That is, there is no due process requirement that a parole denial be supported by "some evidence." The petition therefore is **DENIED**. The clerk shall close the file.

Given the clear controlling Supreme Court authority, a certificate of appealability ("COA") is **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (COA standard). Petitioner is advised that he may ask the court of appeals to issue a COA under Rule 22 of the Federal Rules of Appellate Procedure. See Rule 11(a), Rules Governing § 2254 Cases. The clerk shall close the file.

IT IS SO ORDERED.

Dated: January 28, 2011.



PHYLLIS J. HAMILTON
United States District Judge